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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**  
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11 ALLAN HERDEMIAN,  
12 Plaintiff(s),

Case No.: 2:19-cv-01037-APG-NJK

13 v.

**ORDER**

14 GO WIRELESS, INC., et al.,  
15 Defendant(s).

16 Pending before the Court is the parties' status report. Docket No. 14. The Court held a  
17 hearing on August 15, 2019. *See* Docket No. 22.

18 On June 17, 2019, this case was removed from state court. *See* Docket No. 1. Plaintiff  
19 seeks to stay discovery pending resolution of his motion to remand to state court. *See* Docket No.  
20 14 at 4. Defendants had opposed that request and sought the issuance of a scheduling order so that  
21 this case can proceed without delay. *See id.* at 5. At the hearing, however, Defendants changed  
22 course and indicated that they are agreeable to entry of a stay.

23 Ordinarily, the pendency of a motion to remand is not sufficient justification to stay  
24 discovery. *See Cooks-Putnam v. Trump Las Vegas Corp.*, 2015 U.S. Dist. Lexis 115606, at \*3 (D.  
25 Nev. Aug. 31, 2015) (citing *Grammer v. Colo. Hosp. Ass'n Shared Servs.*, 2015 U.S. Dist. Lexis  
26 83966, at \*5 (D. Nev. June 26, 2015)). Nonetheless, the Court has wide discretion to control its  
27 docket and to control discovery. *See, e.g., V5 Techs. v. Switch, Ltd.*, \_\_\_ F. Supp. 3d \_\_\_, 2019  
28 WL 3814287 (D. Nev. Aug. 13, 2019). At bottom, the Court's exercise of discretion in deciding

1 whether to stay discovery is guided by the overarching principles identified in Rule 1 of the Federal  
2 Rules of Civil Procedure to strive for the just, speedy, and inexpensive resolution of cases. *E.g.*,  
3 *Kor Media Grp., LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013) (quoting *Tradebay, LLC v.*  
4 *eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011)).

5 The Court finds that, in the circumstances of this case, discovery should not proceed until  
6 Plaintiff's motion to remand is decided. This case proceeded in state court for more than two years  
7 before removal. *See* Docket No. 14 at 2-3. Discovery was conducted in state court for 15 months,  
8 and discovery as to Plaintiff's individual claims closed on September 21, 2018. The state court  
9 resolved Defendants' motion for summary judgment, largely denying it. The state court appointed  
10 a special master to oversee additional discovery. The state court issued a minute order granting  
11 Plaintiff's motion for class certification. Upon removal, the parties dispute even the most  
12 fundamental elements of proceeding in this Court, such as whether a class has actually been  
13 certified for purposes of federal court litigation.<sup>1</sup> In short, this is not an ordinary situation in which  
14 a case has been removed in its infancy, but rather there is a long history of state court litigation,  
15 the impact of which is in dispute between the parties.<sup>2</sup> Weighing the competing goals in Rule 1,

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18 <sup>1</sup> After the above minute order was issued but before a formal order was issued, the parties  
19 agreed to modify the class definition based on Defendants' position that it could not ascertain class  
20 members. *See* Docket No. 14 at 3. Two business days after that agreement, Defendants removed  
21 the case to this Court. *See id.* The parties now dispute the import of that minute order.

22 <sup>2</sup> By contrast, the resolution of a motion to remand in a typical case does not impact the  
23 discovery process in any meaningful way:

24 Even if the underlying motion to remand is granted, that will not  
25 render any discovery conducted moot or otherwise result in a waste  
26 of the parties' resources. This action will continue in federal court  
27 or in state court. Unless the case settles, discovery will proceed  
28 regardless of the outcome of the District Court's remand decision.  
Hence, staying discovery pending resolution of the motion to  
remand would only serve to delay the proceedings with no possible  
countervailing benefit.

*Cooks-Putnam*, 2015 U.S. Dist. Lexis 115606, at \*3 (internal quotations and citations omitted).  
Such reasoning is less applicable in a case in which significant proceedings occurred in state court  
and the parties disagree on even the basic procedural posture of this case in light of those  
proceedings.

1 the Court finds that it is in the interest of justice that discovery be stayed in this case pending  
2 resolution of Plaintiff's motion to remand.

3 In the event the motion to remand is denied, a proposed discovery plan must be filed within  
4 14 days of the issuance of the order resolving that motion.<sup>3</sup>

5 IT IS SO ORDERED.

6 Dated: August 15, 2019

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10 Nancy J. Koppe  
11 United States Magistrate Judge  
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28 <sup>3</sup> The parties have referenced a dispute as to whether class notice should issue at this time.  
The Court expresses no opinion herein on that issue.